

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.500 of 2016

Arising Out of PS.Case No. -null Year- null Thana -null District- SIWAN

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Dharmendra Tiwary, aged about 42 years, son of Late Mukhdeo Tiwary, resident of Village at Post Surwala, P.S. G.B. Nagar, District Siwan

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Department of Home, Govt. of Bihar, Patna
2. Principal Secretary, Department of Home, Govt. of Bihar, Patna
3. District Magistrate, Siwan
4. Superintendent of Police, Siwan

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Lalan Kumar, Advocate

For the Respondent/s : Mr. Awadhesh Kumar, AC to GP-3

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 19-05-2016

By this writ petition, the petitioner challenges the surveillance order dated 16.04.2016, passed by the Collector-cum-District Magistrate, Siwan in CCA Case No. 11/2016 under sub-section (3) of Section 3 of the Bihar Control of Crimes Act, 1981.

We have heard learned counsel for the parties and with their consent are disposing of this writ petition at this stage itself.

By the aforesaid order, petitioner has been directed to report to Guthni Police Station at 8:00 in the morning and 6:00 in the evening everyday. Petitioner points out that he is resident of G.B. Nagar Police Station in the district of Siwan and his place of residence

is about 55 kilometers from the concerned police station asking a person to travel twice a day 55 kilometers, that would mean that he is required to travel everyday 220 kilometers that would clearly be unreasonable.

Having heard learned counsel for the State and learned counsel for the petitioner, so far as reasonableness is concerned, on the face of it, appears to be unreasonable. We would not rest our order on the same because it is an order under Crime Control Act. The reason for passing this order is that petitioner is accused in four cases as reported by the Superintendent of Police. Suffice to note that out of the four cases two cases are of the year 2001. Petitioner has been acquitted in both these cases. The 3rd case is of the year 2002 in which police has already submitted final form which has been accepted by the Court. There remains only one case and that too of the year 2010, which is a case instituted only under Section 379 I.P.C. for cutting a tree illegally. Learned counsel rightly, in our view, submits that all these cases are too stale and remote to be taken note of and that too for such a grievous intrusion into the fundamental rights of the petitioner. We may notice that there is mention of a Sanha entry in recent times taken 29.03.2016 obviously it is not report of a cognizable offence because if it was a report of cognizable offence, a First Information Report in terms of Section 154

Cr.P.C. would have been instituted.

Thus, on the ground aforesaid, which are clear from the notice itself, we are satisfied that the order of the Collector-cum-District Magistrate cannot be sustained. It is set aside and petitioner would not be bound by the aforesaid order.

Writ petition is allowed.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Rajesh/-

AFR/NAFR	AFR
CAV DATE	
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